IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.A No.80 of 1993.

Decided on : October 26, 2007

State of H.P. **…Appellant.**

Versus

Som Dutt and others **…Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

The Hon'ble Mr. Justice Surinder Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. Som Dutt Vasudeva, Additional Advocate General, with Mr. D.S. Nainta, Deputy Advocate General.

For the Respondents : Mr. Haresh Sood, Advocate, vice Mr. K.D. Sood, Advocate.

Surjit Singh, Judge(Oral)

Heard and gone through the record.

2. Respondents were sent up for trial for offences punishable under Sections 447, 326, 324, 323, 379 read with Section 149 IPC for allegedly forming an unlawful assembly with the common object of forcibly ousting PW-1 Bhagat Ram from certain piece of land, which was in his possession, and to achieve the said object to use criminal force and in prosecution of the said common object they committed trespass and caused simple and grievous hurts to said Bhagat Ram and his wife Chanchla Devi, by means of axe, *daratis* and *dandas*.

3. Trial Court has acquitted the respondents. We have been taken through the judgment of the trial Court. What has been done by the trial Court is that summary of the statements of the witnesses,

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Whether reporters of the local papers may be allowed to see the judgment?

examined by the prosecution, has been recorded and without analyzing the testimony of the two injured, PW-1 Bhagat Ram and PW-3 Chanchla Devi, and the doctor, who conducted the medico legal examination, namely PW-5 Dr. Sucha Singh, the order of acquittal has been passed with the observation that independent witnesses named in the challan had not been examined and no explanation for their non-examination was offered by PW-1 Bhagat Ram and his wife PW-3 Chanchla and, therefore, the respondents are entitled to acquittal. This is no ground in the eyes of law for passing the order of acquittal. Thus, the judgment passed by the trial Court is no judgment. Accordingly, the appeal is accepted. The judgment of the trial Court is set aside and the matter is remanded to the trial Court with the direction to hear the parties again and to decide the matter in accordance with law. Parties are directed to appear before the trial Court on 21st November, 2007.

(Surjit Singh), J

October 26, 2007(sd) **(Surinder Singh), J**